

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-1333V

Filed: May 3, 2017

Unpublished

JULIE R. KORB,

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Petitioner,

*

v.

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Ruling on Entitlement; Concession;

Influenza Vaccination;

Shoulder Injury Related to Vaccine

SECRETARY OF HEALTH

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Administration ("SIRVA");

AND HUMAN SERVICES,

*

Special Processing Unit ("SPU")

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Respondent.

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Jerome A. Konkol, Samster, Konkol & Safran, S.C., Milwaukee, WI, for petitioner.

Colleen C. Hartley, U.S. Department of Justice, Washington, DC, for respondent.

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On October 13, 2016, Julie R. Korb ("petitioner") filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the "Vaccine Act" or "Program"). Petitioner alleges that she suffered "injuries, including rotator cuff tendinopathy, impingement syndrome and a partial tear, that were caused by the Trivalent Influenza vaccination that she received on Wednesday, September 18, 2013." Petition at 1; *accord*. Petition at ¶¶ 2, 12. Petitioner further alleges that she received the vaccination in the United States, has suffered the residual effects of her injury for more than six months, and has not received compensation for her injuries alleged as vaccine caused. *Id.* at ¶¶ 2, 13-14. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2012)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On May 3, 2017, respondent filed his Rule 4(c) report in which he concedes that petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, respondent "has concluded that petitioner's alleged right shoulder injury is consistent with shoulder injury related to vaccine administration ("SIRVA"), and that it was caused in fact by the flu vaccine she received on October 14, 2013." *Id.* at 7. Respondent further indicates that "based on the record as it now stands, petitioner has satisfied all legal prerequisites for compensation under the Act." *Id.*

In view of respondent's concession and the evidence before me, I find that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master